



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240



SEP 29 2008

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DECISION

Colorado Department of Natural Resources
1313 Sherman St., Rm 718
Denver, Colorado 80203

August 14, 2008 Competitive Oil & Gas Lease Sale Protest Of Parcels COC73064 through COC73094 Is Dismissed

NOTE: Due to the high volume of protests, the official BLM protest response is posted on the BLM Colorado website, co.blm.gov. This paper copy is provided to you as a courtesy.

Your letter was received in our office on July 31, 2008, protesting the above named parcels offered in the August 14, 2008, Competitive Oil & Gas Lease Sale.

Protest Point: The smaller Areas of Critical Environmental Concern (ACEC) incorporated into BLM's plan is inadequate to protect all of the valuable fish and wildlife habitat in the planning area.

Response:

While this topic is not properly the subject of a protest to a lease sale, BLM is willing to reiterate its approach to ACEC designation in the plan amendment process.

The BLM appropriately followed the ACEC proposal process, as described on page 2.3 of the "BLM 1613, Handbook for Areas of Critical Environmental Concern." The BLM examined the relevant and important values and special management attention to protect these values during the analysis in the Draft Environmental Impact Statement (DEIS) and in consideration of comments received by the public and cooperating agencies, decided upon the four ACECs that are detailed in the March 2008 Roan Plateau Resource Management Plan Amendment Record of Decision (ROD). The BLM determined that these ACECs provide an adequate level of protection for the values present. These considerations are consistent with Federal Land Policy and Management Act (FLPMA) and BLM guidance (BLM Handbooks H-1601-1 and H-1613), and the requirement to analyze a range of alternatives (40 C.F.R. § 1502.14). The BLM adequately analyzed a range of alternatives for ACEC designation (i.e., zero to 36,184 acres of

designations).

It is important to note that No Ground Disturbance / No Surface Occupancy (NGD/NSO) stipulations will be applied to any leases issued within the proposed ACECs. The March 2008 ROD details the proposed management prescriptions for the ACECs and outlines such stipulations. Furthermore, the BLM provided adequate conservation protection measure for important resource values.

In spite of arguments by CDNR that additional ACEC designations and protections are needed, the BLM continues to conclude that the ACECs as configured in the RMPA, with their multiple NSO protections, in conjunction with the protections of the Parachute Creek Watershed Management Area, are sufficient to protect sensitive fish and wildlife and their habitat on the upper plateau.

Additionally, the current CDNR proposal and the BLM plan, which was specifically based on the CDNR concept, are similar in many respects. Both plans limit development to areas on ridge tops outside NSO areas and with slopes of less than 20 percent, with most such areas being along existing roadways. The BLM plan differs by having a slightly wider area of potential development in a few portions of the plateau and extending farther onto some secondary ridges. While the larger ACECs preferred by DNR would reduce the width of the potential development areas somewhat, BLM has concluded that the PRMPA/FEIS provided better opportunities for reducing visual impacts of oil and gas activities. This approach thereby reduces impacts to a variety of users, while not having significantly greater impacts on fish and wildlife or their habitat.

Protest Point: BLM should lease the top of the Roan Plateau in phases.

Response:

The BLM in consultation and coordination with Cooperating Agencies (including Colorado Division of Natural Resources), and in consideration of public input developed the Proposed Plan to allow for controlled development of underlying natural gas resources such that important natural values are protected. The concept of phased leasing as defined in your protest letter did not surface as an alternative until after the ROD was signed. As outlined on pages 2-6 through 2-9 of the PRMPA/FEIS, both BLM and Colorado Department of Natural Resources (CDNR) determined that phased and clustered development, by a single operator would reduce the surface disturbance footprint and minimize landscape fragmentation. The BLM and CDNR, when developing the proposed plan, also determined that phased and clustered development would be achieved through an undivided Federal unit agreement, which provides for a single operator. This will allow for development of the natural gas and oil resources atop the plateau while providing for stringent environmental protection measures, including a 350-acre limit on the amount of surface disturbance allowable at any one time. To implement the undivided Federal agreement as described in the June 2007 ROD (Section 6.2.6), it was deemed necessary to lease the entire upper plateau at one time with a requirement that the lessees commit to the undivided Federal unit agreement. Phased leasing could have created disincentives for potential bidders resulting in lower bid prices and would have complicated orderly planning of long-term development.

The effect of the BLM's leasing decision on revenues to the State is highly speculative. The assumptions, analysis, and conclusions presented for the two approaches (i.e., phased

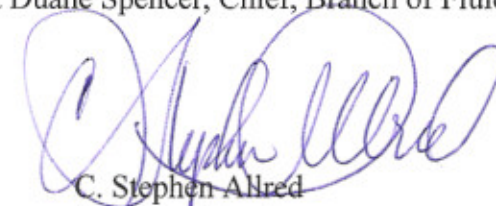
development versus phased leasing) could be argued without definitive resolution. The RMPA decision was to increase environmental protection and still allow for development of the underlying gas resource (p. 2-5 of the PRMPA/FEIS). There is no way of knowing whether future lease sales would be higher or lower – it depends on the success of initial development in terms of (1) the available oil and gas resource, (2) reclamation success, (3) drilling and production costs associated with the greater elevation and poor access to the upper plateau, (4) more stringent environmental constraints, and (5) future economic considerations. Additionally, the BLM contends that there is a time-value of money paid now for some leases that will not be developed for many years or decades.

Protest Point: The BLM should not lease the top of the Roan until the Transfer Act Amendment is passed.

Response:

The amendment to the Transfer Act has been ratified. This protest point is now moot.

Accordingly, on behalf of the Department of the Interior, I dismiss your protest. If you have any questions about this response, contact Duane Spencer, Chief, Branch of Fluid Minerals at 303.239.3753.



C. Stephen Allred
Assistant Secretary
Land and Mineral Management

cc:

State Director, Colorado State Office
DSD, COSO Division of Energy, Lands and Minerals
Field Office Manager, Glenwood Springs